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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,241

10/06/2006

Makoto Takada

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EXAMINER

YAGER, JAMES C

ART UNIT

PAPER NUMBER

1794

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,241	<b>Applicant(s)</b> TAKADA ET AL.	
	<b>Examiner</b> JAMES YAGER	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060918, 20080207, &amp; 20080418</u> .                      | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuoka et al. (JP 2003-104352).

Regarding claims 1 and 2, Matsuoka discloses a plastic envelope ([0007]) (i.e. synthetic resin container) that has reduced permeability to gasses ([0007]) having a coating ([0009]) (i.e. coating film and positioned on at least one of and inner surface and outer surface of the container body) of hexa methyl disiloxane applied by vapor deposition using nitrogen gas ([0024], [0025], Fig. 1) (organic silicon compound layer including nitrogen, silicon, carbon, hydrogen, and oxygen) and a layer of silicon oxide ([0030]) (i.e. silicon compound layer positioned on a surface of said organic silicon compound layer and including silicon oxide as a main component), wherein the coating is deposited by PVD ([0012]) (Physical Vapor Deposition) (i.e. a vapor deposited coating).

It is the examiner's position that since the coating of Matsuoka is made of the identical organosilicon compound (hmdso) as the instant claim, deposited in the

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identical manner (vapor deposition using nitrogen gas) as the instant claim, the coating of Matsuoka will inherently be an organic silicon compound layer including nitrogen, silicon, carbon, hydrogen, and oxygen as instantly claimed.

Regarding claims 3 and 4, Matsuoka discloses all of the claim limitations as set forth above. Matsuoka does not specifically disclose that the refractive index of the organic silicone compound layer or the silicone oxide compound layer are in the range of 1.3 to 1.6. However, It is the examiners position that since the coatings of Matsuoka are identical in composition to the instantly claimed coating, the coating of Matsuoka will possess the same refractive indices.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuoka et al. (JP 2003-104352), as applied to claims 1 and 2 above, in further view of Namiki (US 2002/0058115).

Regarding claims 3 and 4, Matsuoka discloses all of the claim limitations as set forth above. Matsuoka does not specifically disclose that the organic silicone compound layer or the silicone oxide compound layer have a refractive index in the range of 1.3 to 1.6.

Namiki discloses a plastic vessel with excellent gas impermeability ([0013]) (i.e. synthetic resin container possessing a higher gas barrier property), having a silicon oxide film having a refractive index of 1.4 to 1.5 ([0014]) and a film of organic silicone ([0037]), The silicone oxide layer formed by PVD (physical vapor deposition) ([0031]).

Matsuoka and Namiki are analogous art because they both teach about plastic containers having organic silicone and silicone oxide coatings to improve the gas impermeability of the container. Therefore it would have been obvious to one of

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ordinary skill in the art to use the silicon oxide layer having a refractive index of 1.4 to 1.5 on Namiki in the plastic envelope of Matsuoka to provide an envelope with a coating which is relatively transparent so that the consumer can clearly see the product inside of the envelope.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES YAGER whose telephone number is (571)270-3880. The examiner can normally be reached on Mon - Thurs, 7:30am-5pm, EST, Alt. Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571 272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JY 6/16/08

/Callie E. Shosho/

Supervisory Patent Examiner, Art Unit 1794